

REMARKS

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. The Office is respectfully requested to reconsider the rejection present in the outstanding Office Action in light of the following remarks.

The present national stage application entered the national phase under 35 U.S.C. § 371 on March 21, 2001, and includes 17 claims. Claims 1, 7, 10, 13 and 16 are independent claims; the remaining claims being dependent claims. Claims 1-17 have been amended to place the claims in US format. The Applicants intend no change in the scope of the claims by the changes made by these amendments, which have been made merely to expedite prosecution.

Section 112 Rejections

Claims 2 and 17 have also been amended to address the Section 112 issues raised by the Examiner. In this connection, new dependent claims 18-20 are presented herein. It is believed these amendments obviate the Section 112 issues.

The Office asserts the use of the term "may" in Claims 4, 7 and 13 renders these claims indefinite. Applicants respectfully traverse this rejection. The rejected language appears as "may in turn provide confirmation". (Claim 13, similarly in other claims) This language is similar to language appearing in recently issued patents, including U.S. Patent No. 7,171,692 ("may be installed", Claim 6) and 7,171,672 ("may be configured",

Claim 11). Similar language also appears in at least nine (9) issued patents examined by the Examiner currently assigned to handle this application, including Patent No. 6,341,267 ("may be used", Claims 1 and 2). As such, Applicants thus submit this language is not indefinite and this rejection should be withdrawn.

The Office asserts the phrases "low resource-intensive secure communication protocol" and "highly secure payment protocol" are vague and indefinite. Applicants respectfully traverse this rejection and direct the attention of the Office to the second paragraph of page 13 of the application in which these phrases are discussed. In view of the discussion of these phrases in the application itself, Applicants submit this language is not vague and indefinite and this rejection should be withdrawn.

Section 103 Rejections

Claims 1 and 16 stand rejected under Section 103(a) as being unpatentable over U.S. Patent No. 5,592,375 to Bardwell et. al. (hereinafter "Bardwell"). Claims 2-5, 7, 10 and 13 stand rejection under Section 103(a) as being unpatentable over Bardwell in view of EP A 0 854 462 to Hiroya et al. Reconsideration and withdrawal of the present rejections are hereby respectfully requested.

As best understood, Bardwell appears to be directed to a computer-assisted system for the brokering of goods or services where characteristics of the goods or services must be evaluated and compared, but information on the goods or services is inconsistent and dispersed. (Abstract) In particular, Bardwell appears to accomplish this by allowing information in a number of forms to be submitted by the seller, compiled in a database

and reviewed by the buyer with the assistance of an interactive, expert system, networked computer system. (Col. 1, lines 20-24) While the system of Bardwell is concerned with the available bandwidth in the various network configurations, it does not appear to be concerned with the processing power of the components of the network.

Review of information in Bardwell stands in stark contrast to the present invention. As discussed in the specification, among the advantages of the present invention is the ability to utilize security protocols which are selected, at least in part, on the basis of the computer resources which may be expected to be available in each network link, thereby enabling users of PDSs, mobile phones, or hand-held computers to use such devices to more securely transact electronic commerce.. (Pages 3-4 and 5)

In accordance with at least on presently preferred embodiment of the invention, a commercial relationship is established by a user, at least to the extent that that user is aware that he is making a payment which will be redirected by to a trusted third party, who is a trusted server which received and processes requests for information about products or services on an insecure network such as the Internet. Security in payments is improved by splitting the payment into two parts: 1) that associated with the network link between the user and the trusted third party and 2) that associated with the network link between the trusted third party and the merchants. (Page 6, first paragraph) Security protocols are selected, at least in part, on the basis of the computer resources which may be expected to be available in each of the network links.

As the Examiner is aware, to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 there must be a suggestion or motivation to modify a reference or combine references; a reasonable expectation of success in making the modification or combination; and the prior art must teach or suggest all the claim limitations. *See In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). The Office has failed to establish such a *prima facie* case.

As shown above, Bardwell fails to meet the limitations of the independent claims of the instant invention, nor is there any suggestion in Bardwell of the present invention. Similarly, Hiroya does not overcome the deficiencies of Bardwell. Thus, the claimed invention is patentable over the applied references and the state of the art.

In view of the foregoing, it is respectfully submitted that independent Claims 1, 7, 10, 13 and 16 fully distinguish over the applied art and are thus allowable. By virtue of their dependence, it is thus also submitted that Claims 2-6, 8-9, 11-12, 14-15, and 17-20 are also allowable at this juncture.

Other Matters

Applicants note the Office Action does not indicate the Examiner has reviewed the references cited in the International Search Report, which should have been provided to the Office by the International Bureau. Clarification is respectfully requested. Should the Office need a copy of the International Search Report, the Examiner is requested to telephone the undersigned and a copy will be submitted.

The Office is also requested to clarify the correspondence address for this application. Applicants have previously submitted a Change in Correspondence address to associate this application with Customer No. 35195. It does not appear, however, as if the correspondence address was changed. Any assistance the Office may be able to offer in changing the correspondence address would be greatly appreciated.

Conclusion

The "prior art made of record" has been reviewed. Applicants acknowledge that such prior art was not deemed by the Office to be sufficiently relevant as to have been applied against the claims of the instant application. To the extent that the Office may apply such prior art against the claims in the future, Applicants will be fully prepared to respond thereto.

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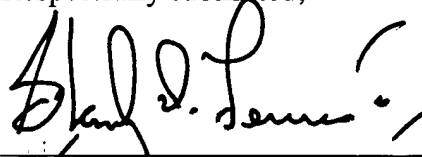
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In summary, it is respectfully submitted that the instant application, including Claims 1-20, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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